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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,189	01/29/2001	Sheldon Sturgis	13578.1US01	9119

23552 7590 10/25/2002

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EXAMINER
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PASCUA, JES F

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 10/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/772,189	STURGIS ET AL.
Examiner	Art Unit	
Jes F. Pascua	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 27 August 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) 17-21 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 and 22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 27 August 2002 is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ . 6) Other: \_\_\_\_\_ .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mykol.

As a note, the rings 18, 19 and the flexible nature of strap 14 inherently permit the entire handle 16 to be located on an opposite side of the vertical centerline from the pouring region 12. Moreover, rings 18, 19 alone are inherently capable of being used as handles.

3. Claims 1-3, 10 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reinhardt.

4. Claims 1, 13 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burbridge.

5. Claims 1-3, 8-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Grimball.

As a note, the loops 4 of Grimball are inherently capable of being used as handles.

6. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Mazzeschi. Mazzeschi discloses pouring contents from a bag by gripping one of two handles 20 (each of which are positioned adjacent a corner along a first edge of the bag), gripping a second corner of the bag at handle 25 with a second hand and pouring the contents through a hole 5 adjacent a corner along the first end edge of the bag. It is noted that the second corner (handle 25) is positioned catercorner from the handle 20 that is adjacent the corner and hole 5 and hole 5 is oppositely disposed from the handle 20 that is gripped.

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 4-7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhardt in view of Onishi (Japanese Patent No. 0023955).

Reinhardt discloses the claimed device except for handling hole 84 having additional material and a ring. Onishi discloses that it is known in the art to provide an additional material and a ring to an analogous handling hole. It would have been

obvious to one having ordinary skill in the art at the time the invention was made to provide the handling hole of Reinhardt with the additional material and ring of Onishi, in order to reinforce the handling hole.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhardt.

Reinhardt discloses the claimed invention except for the pouring region 86 being marked by a dashed line printed on the bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mark the pouring region 86 of Reinhardt with a printed dashed line since it was known in the art that dashed lines printed on bags visually indicates the line of severing for opening the bag.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhardt in view of Schneider et al.

Reinhardt discloses the claimed device except for pouring region 86 having a plurality of perforations. Schneider et al. discloses that it is known in the art to provide a plurality of perforations 16 in an analogous pouring region 27. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pouring region of Reinhardt with the plurality of perforations of Schneider et al., in order to define a pouring hole.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's arguments filed 8/27/02 with regards to claim 22 have been fully considered but they are not persuasive for the reasons set forth above in paragraph no. 6.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 703-308-1153. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.



Jes F. Pascua  
Primary Examiner  
Art Unit 3727

JFP  
October 23, 2002